

REMARKS

The Application has been carefully reviewed in light of the Office Action mailed October 2, 2006. At the time of this Office Action, Claims 1-17 were pending in the Application and Claims 1-17 were rejected. In order to advance prosecution of this case, Claims 1-5, 6 and 11 have been amended to overcome the rejections asserted by the Office. It is believed that the amended claims does not involve any introduction of new matters, whereby entry is believed to be in order and is respectfully requested. The Applicants respectfully request reconsideration and favorable action in this case.

The following actions were taken or matters raised: (I) Claims 1-5 were rejected under 35 U.S.C. § 101 because the claimed invention is cited as being directed to non-statutory matter; (II) Claims 1-3 and 6-15 were rejected under 35 U.S.C. § 102(a) as being anticipated by Wynn et al. (US 6654707); (III) Claims 4-5 and 16-17 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Wynn et al. (US 6654707) in further view of Cote et al. (US 20030212514); and (IV) various prior art made of record and not relied upon was brought to the Applicants' attention.

Claims 1-5 Rejected under 35 U.S.C. § 101

The Office has rejected Claims 1-5 under 35 U.S.C. § 101 because the claimed invention is cited as being directed to non-statutory matter. The Applicants assert that, in view of the amended claims, the present invention as recited in Claims 1-5 recited is clearly statutory matter. More specifically, the preamble of Claims 1-5 has each been amended to recite a server as opposed to a driver for a system component sensor device. Accordingly,

the Applicants submit that the rejection under 35 U.S.C. § 101 applied to Claims 1-5 as being directed to non-statutory matter and respectfully requests the Office to withdraw the rejection asserted against Claims 1-5 as being directed to non-statutory matter.

Claims 1-3 and 6-15 Rejected under 35 U.S.C. § 102(a)

The Office has rejected Claims 1-3 and 6-15 under 35 U.S.C. § 102(b) as being anticipated by Wynn et al. (US 6654707). The Applicants assert that, in view of amended Claims 1, 6 and 11, the present invention as recited in Claims 1-17 is clearly distinguished from Wynn and provides advantageous, useful and non-obvious functionality. Accordingly, the Applicants submit that the rejection under 35 U.S.C. § 102(a) applied to Claims 1-3 and 6-15 as being anticipated by Wynn is overcome and respectfully requests the Office to withdraw the rejection asserted against Claims 1-3 and 6-15 under 35 U.S.C. § 102(a) as being anticipated by Wynn.

More specifically, Claims 1, 6 and 11 have been amended to characterize the invention with greater specificity. Claim 1 has been amended to recite that “...concurrently executing said management and diagnostic functionalities includes a service processor coupled to the system component driver for enabling execution of system component driver commands to be performed remaining operably accessible by a platform-side operating system while the system component driver is operating in the diagnostic mode of operation.” Claims 6 and 11 have each been amended to recite that “...concurrently executing said management and diagnostic functionalities includes a service processor coupled to the system component driver for enabling execution of system component driver commands to be performed remaining operably accessible by a platform-side operating system while the

system component driver is operating in the diagnostic mode of operation.” Accordingly, the service processor remains operably available to the platform-side operating system (i.e., including processors thereof) for enabling diagnostic functionality and system management functionality to be concurrently supported by the service processor and system platform.

As cited by the Examiner, Wynn discloses (col. 3, lines 40-53) that the processor executing diagnostic functionality is unavailable to the operating system while executing such diagnostic functionality. A skilled person will appreciate that the functionality as provided by the claimed invention cannot be provided and is not intended to be provided by implementations of the disclosures by Wynn.

In view of the amendments made to Claims 1, 6 and 11 and the associated remarks, Claims 1, 6 and 11, and all claims dependent thereon, are patentable under 35 U.S.C. 102(a) over Wynn because they recite features, physical structure and/or function not present in, configured for being provided by, or intended to be provided by system or methods in accordance with the disclosures of Wynn, and therefore distinguish physically over Wynn. Accordingly, the Applicant submits that the rejection under 35 U.S.C. § 102(a) applied to Claims 1-3 and 6-15 as being anticipated by Wynn is overcome and respectfully requests the Office to withdraw the rejection asserted against Claims 1-3 and 6-15 under 35 U.S.C. § 102(a) as being anticipated by Wynn.

Claims 4-5 and 16-17 Rejected under 35 U.S.C. § 103(a)

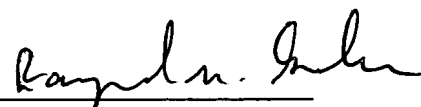
The Applicants respectfully submit that the rejection of Claims 4-5 and 16-17 under 35 U.S.C. § 103(a) as being unpatentable over Wynn et al. (US 6654707) in further view of

Cote et al. (US 20030212514) is traversed. Specifically, in view of the amendments and remarks presented above with respect to the rejection of Claims 1-3 and 6-15 under 35 U.S.C. § 102(a), the Applicants submit that Claim 1 and Claim 11, upon which Claims 4-5 and Claims 16-17 depend, respectively, are novel and non-obvious with respect to Wynn. Hence, Claims 4-5 and 16-17 are novel and non-obvious with respect to Wynn.

CONCLUSIONS

The Applicants have made an earnest attempt to place this case in condition for allowance. For the foregoing reasons, and for reasons clearly apparent, the Applicants respectfully request full allowance of all pending claims. If there are any matters that can be discussed by telephone to further the prosecution of the Application, the Applicants invite the Examiner to contact the undersigned at 512-306-8533 at the Examiner's convenience.

Respectfully Submitted,
Kenneth S. Goss et al.

By: 
Raymond M Galasso
Reg. No. 37,832

Galasso & Associates
P.O. Box 26503
Austin, Texas 78755-0503
Telephone: (512) 306-8533
Facsimile: (512) 306-8559